

224



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,492	06/25/2003	Kazuhisa Obuchi	FUJO 20.466	1683
26304	7590	08/16/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			CHUNG, PHUNG M	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,492

Applicant(s)

OBUCHI ET AL.

Examiner

Phung My Chung

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/25/03</u> . | 6) <input type="checkbox"/> Other: ____. |

1. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, lines 8-10, "a power variable unit transmitting...error rate" is not clear what is being transmitted after changing transmission power of the control signal based on a value of the error rate?

As per claims 2-7, these claims are also rejected because they dependent upon the rejected base claim.

As per claim 8, lines 6-8, "transmitting after changing transmission power...error rate" is not clear what is being transmitted.

As per claims 9-14, these claims are also rejected because they dependent upon the rejected base claim.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Bi et al (EP 1 009 107 A2) in view the applicant's admitted prior art.

As per claim 1, Bi et al disclose the invention substantially as claimed, comprising:

a control signal error rate computation unit computing an error rate of the control signal; and

a power variable unit transmitting after changing transmission power of the control signal based on a value of the error rate. (See col. 1, lines 30-51 and col. 2, lines 18-19). Bi et al do not disclose an error rate control apparatus for use in a communications system which maps a data signal and a control signal to a physical

Art Unit: 2133

channel. However, the admitted prior art does disclose an error rate control apparatus for use in a communications system which maps a data signal and a control signal to a physical channel. (See pg. 1 line 21 to pg. 2, line15). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the error rate control apparatus for use in a communications system which maps a data signal and a control signal to a physical channel as taught by the admitted prior art into the CDMA communication system of Bi et al to improve the transmission efficiency.

As per claim 2, the teaching of Bi et al and the admitted prior art have been discussed above. The admitted prior art further discloses wherein the communication system is a W-CDMA system. (See col. Lines 12-15).

As per claim 3, the admitted prior art further disclose, wherein the control signal is a TFCI, a PILOT or a TPC in a signal format of a W-CDMA system. (See pg. 2, lines 14-15).

As per claim 4, Bi et al further disclose, wherein the control signal error rate computation unit computes an error rate of the control signal based on error detection of the data signal. (See col. 1, lines 30-40 and col. 2, lines 18-19).

As per claims 5-7, the teaching of Bi et al and the admitted prior art have been discussed above. The admitted prior art further discloses the data signal is a transport channel signal of a W-CDMA system; and when a plurality of transport channels are included in a physical frame, the error rate of the control signal is computed based on a number of the transport channels in the physical frame.

As per claim 8, this claim is also rejected under the same rationale as set forth in claim 1.

As per claim 9, this claim is also rejected under the same rationale as set forth in claim 2.

As per claim 10, this claim is also rejected under the same rationale as set forth in claim 3.

As per claim 11, this claim is also rejected under the same rationale as set forth in claim 4.

As per claims 12-14, these claims are also rejected under the same rationale as set forth in claims 5-7.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung My Chung whose telephone number is 703-305-9686. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phung My Chung
Primary Patent Examiner

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